

110TH CONGRESS  
2D SESSION

# S. 2978

To amend the Fair Credit Reporting Act to make technical corrections to the definition of willful noncompliance with respect to violations involving the printing of an expiration date on certain credit and debit card receipts before the date of the enactment of this Act.

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## IN THE SENATE OF THE UNITED STATES

MAY 6, 2008

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Fair Credit Reporting Act to make technical corrections to the definition of willful noncompliance with respect to violations involving the printing of an expiration date on certain credit and debit card receipts before the date of the enactment of this Act.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Credit and Debit Card  
5       Receipt Clarification Act of 2008”.

6       **SEC. 2. FINDINGS; PURPOSE.**

7       (a) FINDINGS.—The Congress finds as follows:

1           (1) The Fair and Accurate Credit Transactions  
2       Act (commonly referred to as “FACTA”) was en-  
3       acted into law in 2003 and one of the purposes of  
4       such Act is to prevent criminals from obtaining ac-  
5       cess to consumers’ private financial and credit infor-  
6       mation in order to reduce identity theft and credit  
7       card fraud.

8           (2) As part of that law, the Congress enacted  
9       a requirement, through an amendment to the Fair  
10      Credit Reporting Act, that no person that accepts  
11      credit cards or debit cards for the transaction of  
12      business shall print more than the last 5 digits of  
13      the card number or the expiration date upon any re-  
14      ceipt provided to the card holder at the point of the  
15      sale or transaction.

16          (3) Many merchants understood that this re-  
17      quirement would be satisfied by truncating the ac-  
18      count number down to the last 5 digits based in part  
19      on the language of the provision as well as the pub-  
20      licity in the aftermath of the passage of the law.

21          (4) Almost immediately after the deadline for  
22      compliance passed, hundreds of lawsuits were filed  
23      alleging that the failure to remove the expiration  
24      date was a willful violation of the Fair Credit Re-

1        porting Act even where the account number was  
2        properly truncated.

3            (5) None of these lawsuits contained an allega-  
4        tion of harm to any consumer's identity.

5            (6) Experts in the field agree that proper trun-  
6        cation of the card number, by itself as required by  
7        the amendment made by the Fair and Accurate  
8        Credit Transactions Act, regardless of the inclusion  
9        of the expiration date, prevents a potential fraudster  
10       from perpetrating identity theft or credit card fraud.

11           (7) Despite repeatedly being denied class cer-  
12        tification, the continued appealing and filing of these  
13        lawsuits represents a significant burden on the hun-  
14        dreds of companies that have been sued and could  
15        well raise prices to consumers without corresponding  
16        consumer protection benefit.

17        (b) PURPOSE.—The purpose of this Act is to ensure  
18        that consumers suffering from any actual harm to their  
19        credit or identity are protected while simultaneously lim-  
20        iting abusive lawsuits that do not protect consumers but  
21        only result in increased cost to business and potentially  
22        increased prices to consumers.

1 **SEC. 3. CLARIFICATION OF WILLFUL NONCOMPLIANCE FOR**  
2 **ACTIONS BEFORE THE DATE OF THE ENACT-**  
3 **MENT OF THIS ACT.**

4 (a) IN GENERAL.—Section 616 of the Fair Credit  
5 Reporting Act (15 U.S.C. 1681n) is amended by adding  
6 at the end the following new subsection:

7 “(d) CLARIFICATION OF WILLFUL NONCOMPLI-  
8 ANCE.—For the purposes of this section, any person who  
9 printed an expiration date on any receipt provided to a  
10 consumer cardholder at a point of sale or transaction be-  
11 tween December 4, 2004, and the date of the enactment  
12 of this subsection but otherwise complied with the require-  
13 ments of section 605(g) for such receipt shall not be in  
14 willful noncompliance with section 605(g) by reason of  
15 printing such expiration date on the receipt.”.

16 (b) SCOPE OF APPLICATION.—The amendment made  
17 by subsection (a) shall apply to any action, other than an  
18 action which has become final, that is brought for a viola-  
19 tion of 605(g) of the Fair Credit Reporting Act to which  
20 such amendment applies without regard to whether such  
21 action is brought before or after the date of the enactment  
22 of this Act.

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